

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7745

BILL NUMBER: SB 446

NOTE PREPARED: May 2, 2005

BILL AMENDED: Apr 29, 2005

SUBJECT: Local Government Liens.

FIRST AUTHOR: Sen. Gard

FIRST SPONSOR: Rep. Wolkins

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill provides that storm water management district fees constitute liens. It sets forth the procedures by which: (1) a lien attaches and is enforced; and (2) payment of fees is enforced. The bill also conforms the lien procedure for regional water, sewage, and solid waste districts and county onsite waste management districts with the lien procedure for municipal sewers. In the lien procedure for municipal sewers, the bill adjusts the timing of billing fees to a seller of property for which a lien is not filed before conveyance.

With respect to cleanup by a local unit of government of a condition that exists on real property and that violates a local ordinance, the bill: (1) provides that a lien attaches to the property for the cost of the cleanup when the lien is recorded; (2) establishes when a bill for the cleanup becomes delinquent; and (3) establishes procedures for collection of fees and penalties and recording and release of liens. The bill also provides that liens for taxes levied by a consolidated city are perfected when evidenced on the tax duplicate.

Effective Date: July 1, 2005.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: *Liens for Storm Water Fees:* A municipal department of storm water management may assess and collect user fees for the purpose of operating and maintaining the storm water system. According to this provision, unpaid storm water fees that have been assessed against real property are to be made a lien against the property. It also allows a department's board to defer initiating the process of

creating the lien up to 90 days after the unpaid fees were due. This may increase expenses recovered if the board pursues the liens, however, it may also incur further court expenses in doing so.

This provision also makes a lien such as this superior to all other liens except for taxes. This designates the lien as having greater priority than other liens, such as those imposed by private banking institutions. This priority could increase the likelihood of expenses being recovered if the lien is pursued. It also conforms the lien procedure for regional water, sewer, solid waste, and onsite waste districts with the lien procedure for municipal sewers. This provision could affect expenditures. However, the specific impact is indeterminable though not expected to be significant.

This provision requires a municipal department of storm water management to issue a notice to a property owner it serves when a storm water fee is recorded as a lien. For those municipal departments of storm water management that do not already issue notices to their customers, administrative costs, such as printing and postage, will likely increase in providing the notices.

It also provides that the list of landowners with delinquent municipal storm water fees may be prepared as often as the officer charged with collecting the fees determines is necessary in a calendar year. The county recorder may collect a filing fee under IC 36-2-7-10 for the filing of a list. Fees range from \$1-\$15 depending on a number of factors including but not limited to page sizes of the document, acknowledging or certifying a document, and proofreading any copy presented for certification. The fiscal impact of this provision is indeterminable and is dependent on the recording fee charged by a county and the number of times a municipality files a list of delinquent municipal storm water fees.

Municipal Liens and Recording: Under current statute, a municipal corporation may certify to the county auditor the amount of a bill that has not been paid within 30 days by an owner of real property who had not brought the property into compliance with an ordinance. This provision makes such a bill delinquent after 30 days of nonpayment and requires the municipal corporation to record either a copy of a list of such delinquent fees or an instrument for each piece of real property with the county recorder. Any increase in administrative expenses for the county recorder are expected to be minimal. The larger fee charged for recording a list or instrument compared to the fee for certifying a document should help offset an increase in administrative burden.

Explanation of Local Revenues: *Liens for Storm Water Fees:* This provision could cause an increase in the amount of revenue collected from such delinquent charges if notification leads to the charges being paid.

Requiring that liens be filed with the county recorder could potentially increase the amount of revenue collected by a municipality from delinquent municipal storm water fees. The fiscal impact is indeterminable and will vary among municipalities.

There could be an increase in revenue to a county if the number of filings by a municipality increases. The amount of revenue generated from the additional recording fees allowed in this provision will vary among counties. Specific fees collected by the county recorder are deposited in the Recorder's Records Perpetuation Fund which is used for the preservation of records and the improvement of record keeping systems and equipment.

This provision also allows the county recorder to charge an additional \$5 as a service charge on each delinquent fee and the county auditor to add a \$15 fee for each parcel of real property on which storm water fees are

delinquent. Both the charge and fee are in addition to all other fees and charges and are placed on the tax duplicates of affected properties once certified to the county auditor.

Municipal Liens and Recording: According to current statute, the fee charged for certifying to a document is \$5, however, the fee for recording a list or instrument is between \$6 and \$15 for the first page and between \$2 and \$5 for subsequent pages, depending on the size of the paper. The fiscal impact of this proposed language is dependent on the number of delinquent bills that must be recorded.

State Agencies Affected:

Local Agencies Affected: County recorders; county treasurers; county auditors.

Information Sources:

Fiscal Analyst: Valerie Ruda, 317-232-9867.